



DAVID E. JANSSEN  
Chief Administrative Officer

# County of Los Angeles **CHIEF ADMINISTRATIVE OFFICE**

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January 30, 2003

To: Supervisor Yvonne Brathwaite Burke, Chair  
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From: David E. Janssen  
Chief Administrative Officer

## **TERRORISM RISK INSURANCE ACT OF 2002**

This is to inform you of the Terrorism Risk Insurance Act of 2002 (TRIA), its immediate impact on the County's commercial insurance programs and the action plan we have implemented regarding purchasing terrorism insurance coverage.

### **BACKGROUND INFORMATION CONCERNING TRIA**

The TRIA, signed into law on November 26, 2002, was created to address the crisis for terrorism insurance that developed after the 9/11 Disaster. Insured losses from the 9/11 Disaster are estimated to be \$50 billion, by far the largest single loss sustained by the insurance industry. In light of this, insurers began excluding terrorism coverage from property and casualty insurance policies, leaving policyholders without protection against this potential catastrophic loss exposure. This caused further apprehension among U.S. businesses relative to future terrorist acts.

The TRIA addresses the concerns of insurers by providing a federal reinsurance program to cover losses arising from terrorist acts committed by foreign agents in the U.S. and its territories. Effective November 26, 2002 through 2005, federal reinsurance



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will cover large losses up to \$100 billion annually, and will reimburse each insurer for 90% of its annual loss from certified terrorist acts less an annual deductible limit for the insurer. The annual deductible limit for each insurer is a percentage (starting at 1% for 2002 and increasing to 15% by 2005) of the insurer's direct premium earnings from the preceding year. This should enable the insurance industry to establish and build its capacity to retain the majority of smaller losses.

The TRIA addresses the concerns of policyholders and businesses by mandating that all property and casualty insurers immediately make available, terrorism coverage, in the following manner:

- For insurance policies in effect (policies in-force on or prior to November 26, 2002), terrorism exclusions are immediately voided. Insurers must provide a premium quote to the policyholder within 90 days from the TRIA's enactment to continue the terrorism coverage under the existing policy. Subsequently, the policyholder has 30 days from the date the premium quote is received to purchase the coverage. If the insurer does not receive the premium payment within the 30 day period, the terrorism exclusion is automatically reactivated.
- For new insurance policies (policies issued after November 26, 2002), the insurer must provide a separate quote for Terrorism Coverage at time of renewal or purchase of the policy.

Insurers currently have the freedom to set premium rates without prior state approval. Insurers, however, will be challenged to establish affordable yet adequate rates for terrorism coverage despite their limited underwriting experience with terrorist acts in the U.S. prior to September 11, 2001, the need to fund escalating deductible limits established by the TRIA, and the federal government's expectation that the industry will establish a stable terrorism insurance market by 2006 with the capacity to absorb future terrorism losses.

### CONCERNS WITH TRIA

At this early stage of the TRIA and the development of the terrorism insurance market, uncertainty is reflected in the inconsistent premium quotes issued for this coverage. We concur with the County's brokers' belief that over time, the insurance industry will develop more uniform underwriting criteria and stable premium rates. In the meantime, the following are our concerns with the TRIA:

- The TRIA is not intended to cover all terrorist acts. It covers losses caused by foreign terrorist only. Consequently, terrorist acts by a domestic group/individual such as the bombing of the Federal Building in Oklahoma City, are not covered by TRIA. In addition, only terrorist acts certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, are covered.
- Premiums for terrorism coverage are established by individual insurers, with little or no controls over pricing at this time. The TRIA waives state prior approval of terrorism rates until the end of 2003, to provide a window of opportunity for insurers to freely develop terrorism insurance programs.
- For insurance policies in-force prior to November 26, 2002, policyholders are only allowed to accept or reject the terrorism coverage offered by the existing insurer and are unable to obtain comparative quotes or negotiate rates and coverages.

#### COUNTY INSURANCE PROGRAMS

Currently, of the County's 11 property and casualty insurance programs, only the Consolidated Property/Boiler Machinery Insurance (Property/Boiler) Program has terrorism exclusion. The remaining 10 property and casualty insurance programs do not have the terrorism exclusion or coverage has been obtained that provides broader and/or more cost effective coverage than is being offer by the TRIA .

In light of the concerns indicated above, especially the inability to obtain comparative quotes and negotiates rates and coverages for this program, we do not believe it prudent to purchase the terrorism coverage for the Property/Boiler program at this time. Purchase of terrorism coverage will be reviewed utilizing the process indicated below during the renewal process for the Property/Boiler program which will begin in May of 2003.

The following process will be implemented to evaluate and determine whether terrorism coverage should be purchased for County insurance programs during each program's annual policy renewal and for any new commercial insurance program:

- We will work with the County's broker to assess the benefits of terrorism coverage relative to overall program coverage and cost.

- The County's brokers will be directed to obtain renewal quotes from other qualified insurers (Insurers must include a separate quote for terrorism coverage as required by the TRIA). These quotes will be used to compare and negotiate renewal coverages and premium.
- We will review quotes with the County's broker and will purchase terrorism coverage if it is determined to be beneficial, cost effective and if budgeted funds are available.

This process has been reviewed and approved by members of the County's Risk Management Advisory Committee. Should you or your staff have any questions, please call Rocky Armfield, the County's Risk Manager at (213) 974-4530.

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